

**ORIGINAL**



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2009 SEP -9 P 2: 39

ARIZONA CORP COMMISSION  
DOCKET CONTENT

1 **GUST ROSENFELD P.L.C.**  
 2 201 E. Washington, Suite 800  
 3 Phoenix, AZ 85004-2327  
 Telephone: (602) 257-7990  
 Shiela B. Schmidt - 011970  
 Attorneys for Applicant Yarnell Water Improvement Association

**BEFORE THE ARIZONA CORPORATION COMMISSION**

6 IN THE MATTER OF THE APPLICATION  
 7 OF YARNELL WATER IMPROVEMENT  
 8 ASSOCIATION, AN ARIZONA NON-PROFIT  
 CORPORATION, FOR AUTHORITY (1) TO  
 9 ISSUE EVIDENCE OF INDEBTEDNESS IN  
 AN AMOUNT NOT TO EXCEED \$767,000.00  
 10 IN CONNECTION WITH (A) THE  
 CONSTRUCTION OF WATER SYSTEM  
 11 INFRASTRUCTURE IMPROVEMENTS AND  
 (B) REPAYMENT OF EXISTING DEBT; AND  
 12 (2) TO ENCUMBER ITS REAL PROPERTY  
 INTERESTS AND WATER SYSTEM  
 13 INFRASTRUCTURE AS SECURITY FOR  
 SUCH INDEBTEDNESS.

Docket No. W-02255A-09-0258

**SUPPLEMENTAL EXHIBIT  
TO YARNELL'S APPLICATION  
FOR FINANCING AUTHORITY  
FILED MAY 22, 2009**

**(AWARD OF CONTRACT FOR  
CONSTRUCTION OF  
IMPROVEMENTS TO WATER  
SYSTEM TO JWJ DESIGN  
BUILDERS, INC. AND  
CONCURRENCE BY USDA-RD)**

Arizona Corporation Commission  
**DOCKETED**

SEP - 9 2009

DOCKETED BY	
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19 Yarnell Water Improvement Association ("Yarnell" or the "Company"), an  
 20 Arizona public service corporation, filed its Application on May 22, 2009, applying for  
 21 authority from the Arizona Corporation Commission ("Commission") to (1) incur  
 22 indebtedness in an amount not to exceed \$767,000.00 and to encumber its real property  
 23 and utility plant and system to secure such indebtedness for the purposes described in the  
 24 Application; (2) enter into the necessary agreements and to take action as may be  
 25 required to obtain the grant funding in an amount not to exceed \$533,000.00; and (3) to  
 26 take such other and further action as may be necessary to effectuate the purposes of the



1 ORIGINAL and 13 copies delivered this  
2 9<sup>th</sup> day of September, 2009 to:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 West Washington Street  
6 Phoenix, Arizona 85007

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By *Alycia D. Evans*

RESOLUTION NO. 2009-02

RESOLUTION OF THE BOARD OF DIRECTORS OF THE YARNELL  
WATER IMPROVEMENT ASSOCIATION, AN ARIZONA NON-PROFIT  
CORPORATION, AWARDED THE CONTRACT FOR CONSTRUCTION OF  
IMPROVEMENTS AND EXTENSIONS OF THE ASSOCIATION'S WATER  
SYSTEM

Yarnell Water Improvement Association  
PO Box 727  
Yarnell, Arizona 85362  
(928) 427-3321

July 9, 2009

Debra Stewart  
USDA – Rural Development  
Community Development Specialist  
230 N. 1st Avenue, Suite 206  
Phoenix, AZ 85003

Subject: Yarnell Water System Improvements  
Concurrence in the Contract Award

Dear Debra Stewart:

On behalf of the Board of Directors for Yarnell Water Improvement Association, please consider this request for Rural Development to concur with the award of the contract for the Yarnell Water System Improvements to JWJ Design Builders, Inc.

Sincerely,



Tammy Zudell  
Secretary / office Manager

RESOLUTION NO. 2009-02

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE YARNELL WATER IMPROVEMENT ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION, AWARDING THE CONTRACT FOR CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS OF THE ASSOCIATION'S WATER SYSTEM.**

**WHEREAS**, on June 25, 2009, the Board of Directors (the "*Board*") of the Yarnell Water Improvement Association (the "*Association*") received proposals for construction of improvements to its water system (the "*Project*"); and

**WHEREAS**, this Board has received the bids for the construction of the Project,  
and

**WHEREAS**, the Board, in open session, opened, examined and publicly declared the bids; and

**WHEREAS**, JWJ Design Builders, Inc. ("*JWJ*") was the apparent low bidder;  
and

**WHEREAS**, a protest against the bid of JWJ was filed by Spire Engineering ("*Spire*"); and

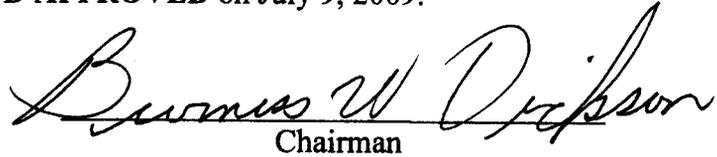
**WHEREAS**, on July 9, 2009, this Board acted to deny the Spire protest; and

**WHEREAS**, after review of all such bids, this Board has determined that the proposal of JWJ is the lowest responsive bid.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE YARNELL WATER IMPROVEMENT ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION, as follows:**

**Section 1.** That the proposal of JWJ is the lowest responsive bid for the received for the construction of the Project. Therefore, the contract for the construction of the Project is awarded to JWJ, subject, however, to the approval of Rural Development, United States Department of Agriculture.

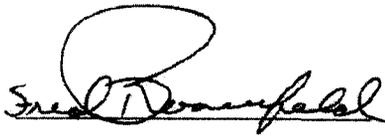
PASSED, ADOPTED AND APPROVED on July 9, 2009.

  
Chairman

ATTEST:

  
Clerk

APPROVED AS TO FORM:



CERTIFICATE

I, Tammy Zudell, hereby certify that the above and foregoing Resolution was duly passed by the Board of Directors of the Yarnell Water Improvement Association, at a regular meeting held on July 9, 2009, that a quorum was present thereat and that the vote thereon was ayes, 3 nays, \_\_\_ abstained, 2 were absent and 3 members were present.

  
Clerk

APPROVAL

Rural Development, United States Department of Agriculture hereby approves the award of contract for the Project to JWJ.

DATED: July \_\_\_\_, 2009.

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USDA-RURAL DEVELOPMENT CORRESPONDENCE  
TO YARNELL WATER IMPROVEMENT ASSOCIATION  
DATED JULY 23, 2009

REGARDING

REVIEW OF BID TABULATIONS/REQUEST FOR  
EXECUTED CONTRACT DOCUMENTS



Committed to the future of rural communities.

United States  
Department of  
Agriculture  
Rural Development

230 N. First Ave., Ste 206  
Phoenix, AZ 85003-1706  
(602) 280-8745  
(602) 280-8705 TDY  
(602) 280-8881 FAX

July 23, 2009

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**JUL 27 2009**

**GUST ROSENFELD**

Yarnell Water Improvement Association  
Attn: Stacey & Tammy Zudell  
P.O. Box 727  
Yarnell, AZ 85362

RE: Review of Bid Tabulations/Request for Executed Contract Documents

Dear Stacey & Tammy:

The Bid Tabulation and Award recommendation by your Consulting Engineer for the construction of the Water System Improvements project have been reviewed and are acceptable. Concurrence in the award of the construction contract to JWJ Design Builders in the amount of \$446,200.00 is hereby given. We now request that the executed Contract Documents in the "EJCDC" format be submitted to this office for review and final approval.

The Construction Contract Documents must consist of an original and three copies (in **Binder Form**) executed by the Contractor and the Owner along with folder size copies of the construction plans and specifications. After review and approval by Rural Development, the original Contract Documents will be forwarded to the Owner and copies to the Contractor and the Engineer. The contract documents must be approved by USDA Rural Development before issuance of the "Notice to Proceed". A copy will be retained by USDA Rural Development. The contract documents are to include a table of contents with each form or section properly labeled and numbered to facilitate the final review. The contract documents must be properly stamped with the engineer's seal and signature.

The contract documents as referred herein shall consist of the following:

Advertisement for Bids - RUS Bulletin 1780-26, Exhibit D  
Information to Bidders - RUS Bulletin 1780-26, Exhibit E  
Bid Form - RUS Bulletin 1780-26, Exhibit F  
Supplementary Conditions - RUS Bulletin 1780-26, Exhibit G  
EJCDC No. C-430 (02) Bid Bond  
EJCDC No. C-510 (02) Notice of Award

"USDA is an equal opportunity provider, employer and lender."  
To file a complaint of discrimination write USDA, Director, Office of Civil Rights,  
1400 Independence Avenue, S.W., Washington, DC 20250-9410  
or call (800)795-3272 (voice) or (202) 720-6382 (TDD).

EJCDC No. C-521 (02) Form of Agreement between Owner and Contractor  
EJCDC No. C-550 (02) Notice to Proceed  
EJCDC No. C-610 (02) Construction Performance Bond  
EJCDC No. C-615 (02) Construction Payment Bond  
EJCDC No. C-620 (02) Contractor's Application for Payment  
EJCDC No. C-625 (02) Certificate of Substantial Completion  
EJCDC No. C-710 (02) Standard General Contract Conditions.  
EJCDC No. C-800 (02) Supplementary Conditions, Bulletin 1780-26, Exhibit G  
Exhibit GC-A Certificate of Owner' Attorney  
EJCDC No. C-941 (02) Change Order  
Form RD 400-6, Compliance Statement  
Form AD-1048, Certification Regarding Debarment  
Form RD 1040-Q, Certification for Contracts, Grants, and loans  
Contractor's Insurance Certificate  
Temporary Construction Sign

The Insurance Certificate should be effective during the term of the contract and with the appropriate levels of coverage as specified:

- a. The limits of liability which are to be provided by the Contractor's insurance company are outlined in the General Conditions.
- b. Contractor's General Public Liability and Property Damage Insurance including vehicle coverage shall be written with a limit of liability of not less than \$500,000 for damages arising out of bodily injury, including death, at any time resulting there from, sustained by any one person in any one accident; and a limit of liability of not less than \$500,000 aggregate for any such damages sustained by two or more persons in any one accident.
- c. Insurance shall be written with a limit of liability of not less than \$200,000 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than \$200,000 aggregate for any such damage sustained by two or more persons in any one accident.
- d. If part of the insurance coverage is to be provided by an Umbrella Excess Liability Policy, the Certificate of Insurance must make specific reference to this Contract by title, parties involved, and date of Contract, in the "Description of Operations/Locations/Vehicles" section of the Certificate.
- e. The contractor shall procure and maintain, at the Contractor's own expense, during the contract time, in accordance with the provisions of the laws of the State of Arizona, Workmen Compensation Insurance, including occupational disease provisions, for all of the Contractor's employees at the site of the project, and in case any work is sublet, the Contract shall require such subcontractor similarly to provide Workmen Compensation Insurance, including occupational disease provisions for all of the Subcontractor's employees unless such employees are covered by the protection afforded by the contractor.

f. The Certificates of Insurance shall contain a provision that coverage afforded under the policies will not be canceled unless at least 15 days prior written notice has been given to the Owner. The provision "will endeavor to mail 15 days written notice to the certificate holder named to the certificate, but failure to mail such notice shall impose no obligations or liability of any kind upon the company, its agents, or representatives," is unacceptable. The Certificate must only state that the issuing company will mail 15 days written notice to the certificate holder names.

The contractor will provide performance and payment bonds. **Please note that the bonds are not to be dated prior to the date of the agreement.**

The executed Contract Documents must also be reviewed and approved by your Attorney prior to submittal to Rural Development. The "Certificate of Owner's Attorney," which is included in the Contract Documents is to be utilized for this approval.

Once the executed Contract Documents have been reviewed and approved by Rural Development, a Preconstruction Conference will be scheduled for the owner, engineer contractor and other interested parties. Since the Rural Development Engineer is to be in attendance at this conference, you need to coordinate the scheduling of the Preconstruction Conference with this office. The "Notice to Proceed" will normally be executed and issued at the preconstruction meeting.

Rural Development requires that the Owner provide construction inspections of Rural Development financed projects utilizing a qualified Inspector from its own work force or an Inspector provided by its Consulting Engineer. A resume of the Inspector's qualifications MUST be submitted for review and approval by Rural Development prior to the Preconstruction Conference so that the Notice to Proceed can be authorized.

Sincerely,



DEBRA STEWART

Community Programs Specialist

cc: Claycomb / Rockwell Associates, Inc.  
8991 E. Valley Rd., Prescott Valley, AZ 86314

✓ Shiela Schmidt, Gust Rosenfeld, P.L.C.  
201 E. Washington, Suite 800  
Phoenix, AZ 85004-2327



Committed to the future of rural communities.

United States  
Department of  
Agriculture  
Rural Development

230 N. First Ave., Ste 206  
Phoenix, AZ 85003-1706  
(602) 280-8745  
(602) 280-8881 FAX

DATE: July 21, 2009

SUBJECT: Yarnell Bid Recommendation  
for Water System Improvements

TO: Debra Stewart, Acting CP Director, Phx, AZ

FROM: Reed J Petersen, RD Civil Engineer, Phx, AZ

CC: Jeff Hooper, Area Specialist, Willcox, AZ

I have reviewed the bid tabulations for the Yarnell Water Improvement Association water system improvements. Nine bids were received. The bidders and their bids were:

JWJ Design Builders	\$446,200.00
Spire Engineering	452,540.00
Rocky Construction	504,361.00
Grady's Excavating	519,975.50
Asphalt Paving & Supply	559,196.00
Hayden Building Corp	566,730.00
Fann Contracting	633,674.00
D & O Contractors	637,252.32
CNB Excavating	741,453.00
Engineer's Estimate	755,078.00

The low bidder, JWJ Design Builders, is in good standing with the Arizona Register of Contractors and holds the appropriate licenses to do the work. The Engineer recommends award to the low bidder, JWJ Design Builders. The bid covers the cost for equipment and construction.

The Yarnell Water Improvement Association Board voted to approve the award of the contract to the low bidder, JWJ Design Builders.

I concur with the Engineer's recommendation that the contract for the Water System Improvements to be awarded to the low bidder, JWJ Design Builders, in an amount of \$446,200.00.

The Owner should provide to USDA-RD four original executed copies of the completed Plans, Specifications, and Contract Documents, one copy each for the Owner, Contractor,

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To file a complaint of discrimination write USDA, Director, Office of Civil Rights,  
1400 Independence Avenue, S.W., Washington, DC 20250-9410  
or call (800)795-3272 (voice) or (202) 720-6382 (TDD).

Engineer, and USDA-RD. These should be provided to USDA-RD for concurrence and for a stamp on the front of each document (signed by all parties) verifying that each is an original. These documents may be distributed at the Preconstruction Conference, at which time it would be appropriate to issue the Notice to Proceed issued.

It would be appropriate to schedule the Pre-Construction Conference with the Owner, Contractor, Engineer, USDA-RD, and other interested parties. If my schedule permits, I will be glad to attend the Pre-Construction Conference.

A handwritten signature in black ink, appearing to read 'Reed J. Petersen', with a long horizontal flourish extending to the right.

REED J PETERSEN  
RD Civil Engineer, Phx, AZ